

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : Kai SCHIEMANN, et al.

Serial No.: 10/551,998

Group Art Unit: 1626

Filed: October 5, 2006

Examiner: CHU, Yong Liang

Title: 1,3,4-SUBSTITUTED PYRAZOLES AS 5-HT RECEPTOR ANTAGONISTS FOR THE TREATMENT OF PSYCHOSES AND NEUROLOGICAL DISORDERS

REPLY

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

SIR:

In response to the Office Action mailed on September 6, 2007, applicants elect with traverse Group II, claims 1-7, 9, 13 and 16, wherein X is CH. As a species applicants elect with traverse the compound of example 8, i.e., 4-(1,3-diphenyl-1H-pyrazol-4-ylmethyl)-morpholine (see page 21 for the structure of this compound).

The traversal is on the grounds that the patent office has not established that it would pose an undue burden to examine the full scope of the claimed invention.

In accordance with M.P.E.P. 803.02, the Examiner is reminded that, should no prior art be found which renders the invention of the elected species unpatentable, the search of the remainder of the generic claim(s) should be continued in the same application. Since the decisions in *In re Weber*, 580 F.2d 455, 198 USPQ 328 (CCPA 1978) and *In re Haas*, 580 F.2d 461, 198 USPQ 334 (CCPA 1978), it is improper for the Office to refuse to examine that which applicants regard as their invention, unless the subject matter in a claim lacks unity of invention.

Additionally, applicants bring the attention of the Examiner to MPEP § 821.04, Rejoinder, which states that “if the elected invention is directed to the product and the claims directed to the product are subsequently found patentable, process claims [both process of making and using] which either depend from or include all the limitations of the allowable product will be rejoined.” If the restriction requirement is maintained at this point, rejoinder of the non-elected claims is respectfully requested at the proper time in accord with the

rejoinder provisions of the MPEP.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

/Csaba Henter/

Csaba Henter, Reg. No. 50,908
Anthony J. Zelano, Reg. No. 27,969
Attorneys for Applicants

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
Arlington Courthouse Plaza I
2200 Clarendon Boulevard, Suite 1400
Arlington, Virginia 22201
Direct Dial: 703-812-5331
Facsimile: 703-243-6410

Attny. Docket No.: Merck-3073

Filed: September 24, 2007

K:\MERCK\3000 - 3999\3073\RESTR REPLY.DOC